

PERMITTING THE PROCESSING OF CERTAIN APPLICATIONS
UNDER THE SMALL TRACTS ACT FOR LANDS INCLUDED IN THE
CARIBOU AND TARGHEE NATIONAL FORESTS BY THE ACT OF
AUGUST 14, 1958

August 4, 1959.—Ordered to be printed

Mr. CHURCH, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3682]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 3682) to permit the processing of certain applications under the Small Tracts Act for lands included in the Caribou and Targhee National Forests by the act of August 14, 1958, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 3682 is to authorize the Secretary of the Interior to sell or lease, under the Small Tracts Act (52 Stat. 609, 43 U.S.C. 682-682e), as amended, certain lands which were added to the Caribou and Targhee National Forests in the State of Idaho by the act of August 14, 1958 (72 Stat. 607). The lands in question are those for which applications were pending in the Department of the Interior on March 28, 1957, the date on which S. 1748, 85th Congress, which became the act of August 14, 1958, was introduced in the Senate. If H.R. 3682 is enacted, the Secretary will be authorized to grant or reject these applications on the basis of the same standards which he would have applied had the 1958 act not become law.

Enactment of H.R. 3682 will also authorize the Secretary to grant or reject, as under the Small Tracts Act and in accordance with the same standards, an application for one additional small tract if such application is filed not later than July 1, 1960, by the person who had an application pending on March 28, 1957, under the Isolated Tracts Act, as amended (R.S. 2455, 43 U.S.C. 1171), for a larger area identified in the bill.

NEED

At the time the bill which became the 1958 act was introduced in the 85th Congress, there were pending before the Department of the Interior 22 applications for the lease or sale of land under the Small Tracts Act and one application under the Isolated Tracts Act. Although section 4(a) of the 1958 act expressly provided that nothing contained in it should be construed "to diminish or in anywise affect any valid rights in or to, or in connection with," the lands which were being covered into the Caribou and Targhee National Forests, no provision was made for preserving the status of the pending applications or for permitting the Secretary of the Interior to decide to accept or reject them on their own merits.

The committee agrees that, even though the small tract applicants had and have no legally protected interest in the lands, they were entitled to more consideration than they were accorded. This can now be given them only by the enactment of legislation which will restore the status quo ante and open the way for the Secretary to determine, without reference to the enactment of the 1958 law, whether the applications should be rejected or whether they should be wholly or partially granted. Enactment of H.R. 3682 is needed to accomplish this object.

The application under the Isolated Tracts Act is somewhat different since it was for 320 acres which, because of the construction by the United States of the Palisades Reservoir in the vicinity, have probably become far more valuable than they were before and might, if allowed to go to one person, result in an unjustifiable windfall. In view of this, the committee's amendment to the bill allows this applicant to reapply under the Small Tracts Act and permits the Secretary to process the application in the same way as the others.

The committee points out that under H.R. 3682 the Secretary of the Interior is not required to sell or lease the lands in question. He is merely authorized to grant or reject in whole or in part the various applications on the basis of the same standards which would have applied on applications in granting or rejecting them had the act of August 14, 1958, not been enacted. The Department of the Interior, in other words, may use its usual discretion in determining whether and to what extent and under what terms any of these tracts should be sold or leased.

COST

Enactment of H.R. 3682 will result in only minor administrative expenses to the Department of the Interior. If the applications are allowed, it will increase the Government's revenues to a small extent.

DEPARTMENTAL RECOMMENDATIONS

The no-objection reports of the Department of the Interior and the Department of Agriculture are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 14, 1959.

Hon. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: This is in reply to your request for the views of this Department on H.R. 3682, a bill to permit the processing of certain applications under the Small Tracts Act for lands included in the Caribou and Targhee National Forests by the act of August 14, 1958.

We would not object to the enactment of this bill, if the Department of Agriculture has no objection to its enactment.

The act of August 14, 1958 (72 Stat. 607), added certain lands in Idaho to the Targhee and Caribou National Forests. Section 4(a) of that act (72 Stat. 607, 608) stated that the sole purpose of the act was to subject lands within the extended boundaries of the forests to the laws and regulations governing the national forests and not to authorize the acquisition of any additional lands by the United States or to diminish or affect in any way valid rights applicable to those lands existing on the date of the statute's approval. H.R. 3682 would add to this subsection an additional provision to the effect that nothing in the act would "prejudice the sale or lease by the Secretary of the Interior of lands for which application under the act of June 1, 1938 (52 Stat. 609), as amended, was pending on March 28, 1957." March 28, 1957, it should be noted, was the date on which the act of August 14, 1958, was introduced in the Congress as S. 1748.

A portion of the land subject to the act of August 14, 1958, was public land administered by the Bureau of Land Management of this Department on which 22 applications under the Small Tract Act of June 1, 1938, as amended (43 U.S.C., secs. 682-682e), were pending at the time of the introduction of S. 1748 which became the 1958 act. There was one other application pending under another statute at that time. Accordingly, in our report of February 21, 1958, to the chairman of the Interior and Insular Affairs Committee of the Senate on S. 1748 we recommended that the bill be amended so as to protect these applications. We had been informed that the inclusion of these lands was inadvertent. The Senate committee recommended that our proposed amendment be adopted, and S. 1748, as it was passed by the Senate, did include the amendment. How-

ever, the House Committee on Interior and Insular Affairs rejected the amendment, and, as the bill became law, it did not include the amendment which we had proposed. Consequently, we rejected the applications. H.R. 3682 would amend the act of August 14, 1958, to protect the small-tract applications, but not to protect any other applications. Because of the primary responsibility of the Department of Agriculture for the administration of the Caribou and Targhee National Forests, we would not approve of the enactment of this bill if that Department should object. However, in the absence of objection by the Department of Agriculture, we would not oppose the enactment of H.R. 3682, since its provisions are generally consistent with our original report on S. 1748.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 13, 1959.

Hon. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives.*

DEAR CONGRESSMAN ASPINALL: Reference is made to your request of February 2, 1959, for the views of this Department on H.R. 3682, a bill to permit the processing of certain applications under the Small Tracts Act for lands included in the Caribou and Targhee National Forests by the act of August 14, 1958.

This Department would have no objection to the enactment of H.R. 3682.

This bill would amend the act of August 14, 1958 (72 Stat. 607, 608), which added certain lands to the Caribou and Targhee National Forests in Idaho. The amendatory bill would enable the Secretary of the Interior to sell or lease the part of such lands for which applications under the act of June 1, 1938 (52 Stat. 609), as amended, were pending in the Department of the Interior on March 28, 1957. By passage of the bill such applications may be granted or rejected in whole or in part in the same way that they could have been handled had the act of August 14, 1958, not been enacted.

The lands which were added to the Caribou and Targhee National Forests consist of about 15,700 acres of Federal lands withdrawn or acquired in connection with the Palisades Reservoir reclamation project. Included among the lands added to the national forests were about 110 acres covered by 22 applications under the Small Tracts Act of June 1, 1938 (52 Stat. 609), as amended. Addition of the lands to the national forests removed them from operation of the Small Tracts Act despite the fact that the applications were pending at the time. As stated in our report on S. 1748 which became the 1958 act, the character of the lands is such that they are suitable for national forest purposes, particularly in connection with the public recreation generated by the Palisades Reservoir. However, as also stated in that report, we would have no objection to the enactment of provisions which would recognize the prior filing of the applications

in the Department of the Interior, if the Congress concludes that it would be equitable to consider the applications.

We wish to point out that in addition to the several applications pending under the Small Tracts Act, there was also one application for public sale of a tract of about 320 acres under Revised Statutes 2455 (43 U.S.C. 1171) which authorizes public sales of isolated parcels of public domain. The bill would not permit processing of this additional application by the Secretary of the Interior. This Department does not know if the tract covered by the additional application is suitable for or would be classified for public sale if it were to be processed in accordance with the intent expressed in section 3 of the bill—that is, that the applications be granted or rejected, in whole or in part, on the basis of the same standards which would have been applied in granting or rejecting the applications had the act of August 14, 1958, not been enacted. However, if any prior applications are to be considered, it would appear equitable to consider them all.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

(Signed) E. T. BENSON, *Secretary*.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 3682 as amended.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 14, 1958 (72 STAT. 607,608)

* * * * *

SEC. 4. (a) It is hereby declared that the sole purpose of this Act is to subject the lands referred to in the foregoing sections of this Act to all laws and regulations applicable to national forests, and nothing in this Act shall be construed to authorize the United States to acquire any additional lands or any interest therein, nor to diminish or in anywise affect any valid rights in or to, or in connection with, any such lands which may be in existence on the date of enactment of this Act. *nor to prejudice the sale or lease by the Secretary of the Interior under the Act of June 1, 1938 (52 Stat. 609), as amended, of lands for which applications under that Act were pending on March 28, 1957, and of one additional tract, not exceeding five acres, in either the south half of the northwest quarter of the northeast quarter of the northwest quarter, or the north half of the northeast quarter of the northwest quarter of the northwest quarter, both of section 17, township 2 south, range 46 east, Boise Meridian, if application for such additional tract be made not later than July 1, 1960, by an applicant whose application under R.S. 2455, as amended (43 U.S.C. 1171) for lands within the west half of the said section 17 was pending on March 28, 1957.*

